

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

LARRY E. EALY,

Case No. 3:-09-cv-047

Plaintiff,

-vs-

**District Judge Thomas M. Rose
Magistrate Judge Michael R. Merz**

JUDGE MANNING, et al.,

Defendants.

**ENTRY AND ORDER OVERRULING EALY’S OBJECTIONS (Doc. #4)
AND ADOPTING THE MAGISTRATE JUDGE’S REPORT AND
RECOMMENDATIONS REGARDING EALY’S COMPLAINT (Doc. #3) IN
ITS ENTIRETY**

This matter is before the Court pursuant to Magistrate Judge Merz’s Report and Recommendations (doc. #3) regarding the Verified Complaint filed by Pro Se Plaintiff Larry E. Ealy (“Ealy”). This particular Complaint is against Judge Manning, Judge Adele Riley, Sheriff Dave Vore and Public Defender Gary Titus. Ealy’s First Cause of Action is for violation of the First and Fourteenth Amendments based on the action of Judge Manning in conspiring “to trespass the Plaintiff out of the Area 1 District Courthouse.” Ealy’s Second Cause of Action is brought on behalf of Larry L. Ealy in violation of the Fourth, Fifth and Eighth Amendments for actions while Larry L. Ealy was incarcerated. Ealy’s Third Cause of Action is brought on behalf of Larry L. Ealy in violation of the Sixth and Fourteenth Amendments and 42 U.S.C. §§ 1983, 1985 and 1988 for conspiracy to incarcerate.

Upon review of the Complaint, Magistrate Judge Merz determined Ealy’s First Cause of Action should be dismissed with prejudice and that his Second and Third Causes of Action

should be dismissed without prejudice. The Magistrate Judge also ordered the Clerk not to issue process pending further order of the Court.

The District Judge has made a de novo review of the record and applicable legal authority on this matter pursuant to 28 U.S.C. § 636(b) and Fed.R.Civ.P. 72(b). The record reviewed includes Ealy's Objections to the Magistrate Judge's Report and Recommendations.

Upon consideration of the foregoing, the Court finds that Ealy's Complaint is DISMISSED. Ealy's First Cause of Action is dismissed with prejudice and Ealy's Second and Third Causes of Action are dismissed without prejudice.

The Magistrate Judge's Report and Recommendations (doc. #3) is adopted in its entirety. No process shall issue without further order of the Court.

DONE and **ORDERED** in Dayton, Ohio, this Sixteenth day of March, 2009.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record

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